

**SUPREME COURT OF CALIFORNIA  
ORAL ARGUMENT CALENDAR  
LOS ANGELES SESSION  
DECEMBER 5 and 6, 2006**

The following cases are placed upon the calendar of the Supreme Court for hearing at its courtroom in the Ronald Reagan State Office Building, 300 South Spring Street, Third Floor, North Tower, Los Angeles, California on December 5 and 6, 2006.

**TUESDAY, DECEMBER 5, 2006—9:00 A.M.**

- |     |         |   |
|-----|---------|---|
| (1) | S133805 | Taus v. Loftus et al.   |
| (2) | S131664 | Reigelsperger et al. v. Siller  |
| (3) | S133794 | Pioneer Electronics v. Superior Court (Patrick Olmstead,<br>Real Party in Interest) |

**2:00 P.M.**

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|-----|---------|--|
| (4) | S133378 | Cacho et al. v. Boudreau                       |
| (5) | S125236 | People v. Chacon (Maria)                       |
| (6) | S038499 | People v. Bell (Stephen M.) [Automatic Appeal] |

**WEDNESDAY, DECEMBER 6, 2006—9:00 A.M.**

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|-----|---------|--|
| (7) | S124195 | California Statewide Communities Development Authority<br>v. All Persons Interested in the Matter of the Validity of a<br>Purchase Agreement, etc. |
| (8) | S132772 | Grisham v. Philip Morris, U.S.A., et al.   |
| (9) | S137137 | People v. Leon (Avelino) et al.  |

**1:30 P.M.**

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|------|---------|---|
| (10) | S121676 | Sterling v. Taylor  |
| (11) | S129852 | People v. Giles (Dwayne)  |
| (12) | S132666 | People v. Navarro (Horacio)<br><i>(Baxter, J., not participating; Kitching, J., assigned justice<br/>pro tempore)</i> |

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**GEORGE**  
*Chief Justice*

If exhibits are to be transmitted to this court, counsel must comply with rule 18(c) of the California Rules of Court.

**SUPREME COURT OF CALIFORNIA  
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The following case summaries are issued to inform the public and the press of cases that the Supreme Court has scheduled for oral argument and of their general subject matter. Generally, the descriptions set out below are reproduced from the original news release issued when review in each of these matters was granted and are provided for the convenience of the public and the press. The descriptions do not necessarily reflect the view of the court or define the specific issues that will be addressed by the court.

**TUESDAY, DECEMBER 5, 2006—9:00 A.M.**

***(1) Taus v. Loftus et al., S133805***

#05-141 Taus v. Loftus et al., S133805. (A104689; unpublished opinion; Superior Court of Solano County; FCS021557.) Petition for review after the Court of Appeal affirmed in part and reversed in part an order granting in part and denying in part a special motion to strike under Code of Civil Procedure section 425.16. This case includes the following issue: In this action against the authors and investigators of articles relating to the alleged recovery of repressed memories of child abuse, did the Court of Appeal properly conclude that plaintiff established a prima facie case supporting some of her claims for invasion of privacy and defamation?

***(2) Reigelsperger et al. v. Siller, S131664***

#05-80 Reigelsperger et al. v. Siller, S131664. (C045534; 125 Cal.App.4th 1008; Superior Court of Sutter County; CVCS031466.) Petition for review after the Court of Appeal affirmed an order denying a motion to compel arbitration. This case presents the following issue: Did a written arbitration agreement that was entered into at the time of a patient's first treatment by a chiropractor, which stated that it would "bind the patient and the health care provider . . . who now or in the future treat[s] the patient," apply to the patient's second treatment by the chiropractor for a different condition two years later?

***(3) Pioneer Electronics v. Superior Court (Patrick Olmstead, Real Party in Interest), S133794***

#05-172 Pioneer Electronics v. Superior Court (Patrick Olmstead, Real Party in Interest), S133794. (B174826; 128 Cal.App.4th 246; Superior Court of Los Angeles County; BC257222.)

Petition for review after the Court of Appeal granted a petition for peremptory writ of mandate. This case includes the following issue: In a putative class action, would the privacy rights of potential class members be violated by a precertification letter to be sent to those potential class members who had complained to defendant regarding the alleged defect upon which the action is based, when the letter states that failure to respond to the letter will be treated as consent to disclose the identity of the potential class member to plaintiffs' counsel for the purpose of this action?

**2:00 P.M.**

***(4) Cacho et al. v. Boudreau, S133378***

#05-148 Cacho et al. v. Boudreau, S133378. (D043396; 127 Cal.App.4th 707; Superior Court of San Diego County; GIS007670.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issues: (1) Did the Mobilehome Residency Law (Civ. Code, § 798 et seq.) preempt a city ordinance that permitted the owner of a mobilehome park to pass through an increase in property taxes to tenants of the park? (2) If so, were statutory penalties for a willful violation of the Mobilehome Residency Law properly imposed where the city housing director had offered the opinion that such a pass-through of property taxes was lawful?

***(5) People v. Chacon (Maria), S125236***

#04-87 People v. Chacon (Maria), S125236. (B164649; 118 Cal.App.4th 427; Superior Court of Los Angeles County; BA219058.) Petition for review after the Court of Appeal reversed the dismissal of a criminal proceeding. This case presents the following issues: (1) When the trial court denies the prosecution's pretrial motion to exclude evidence relevant to a defense, and consequently the prosecution asserts that it is unable to proceed to trial and obtains dismissal of the action under Penal Code section 1385, do the People have a right to appeal from the dismissal order? (2) In what circumstances may a pretrial evidentiary ruling properly justify a discretionary dismissal in the furtherance of justice under Penal Code section 1385 subdivision (a) and what factors should a trial court consider in exercising its discretion? (3) In an appeal from a pretrial order of dismissal under that section, when, if ever, are the merits of evidentiary

rulings preceding the order of dismissal reviewable in that appeal? (4) Should California law recognize the defense of entrapment by estoppel, and if so, can this defense bar a criminal conviction when the defendant relies on the advice of a city attorney regarding the legality of her actions under state law?

***(6) People v. Bell (Stephen M.), S038499 [Automatic Appeal]***

This matter is an automatic appeal from a judgment of death.

**WEDNESDAY, DECEMBER 6, 2006—9:00 A.M.**

***(7) California Statewide Communities Development Authority v. All Persons Interested in the Matter of the Validity of a Purchase Agreement, etc., S124195***

#04-69 California Statewide Communities Development Authority v. All Persons Interested in the Matter of the Validity of a Purchase Agreement, etc., S124195. (C042944, C042947, C042948; 116 Cal.App.4th 877; Superior Court of Sacramento County; 02AS03351, 02AS03353, 02AS04563.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issue: Can tax-exempt bond financing be provided to sectarian schools that discriminate on religious grounds in admission and require instruction in a particular faith so long as the financed facilities will not be used for any sectarian purpose, or is the provision of such financing to such entities nonetheless barred by article XVI, section 5, of the California Constitution or the establishment clause of the First Amendment to the United States Constitution?

***(8) Grisham v. Philip Morris, U.S.A., et al., S132772***

#05-181 Grisham v. Philip Morris, U.S.A., et al., S132772. (9th Cir. Nos. 03-55780, 03-56018; 403 F.3d 631; Central District of California; CV-02-7930-SVW(RCX).) Request under California Rules of Court, rule 29.8, that this court decide questions of California law presented in a matter pending in the United States Court of Appeals for the Ninth Circuit. As restated by the court, the questions presented are: “(1) For the purpose of the statute of limitations period applicable under California law to a personal injury action alleging injury arising from smoking tobacco, are persons presumed to have been aware by 1988 that smoking causes addiction and other health problems? If California recognizes such a presumption, under what circumstances is

it rebuttable? (2) Under California law, if a plaintiff seeks damages resulting from an addiction to tobacco, does addiction constitute an injury causing all related claims to accrue at the time the plaintiff recognizes that he or she is addicted to tobacco, even if the plaintiff has not yet been diagnosed with an illness stemming from tobacco use?”

**(9) *People v. Leon (Avelino) et al., S137137***

#05-213 *People v. Leon (Avelino) et al., S137137*. (B173851; 131 Cal.App.4th 966; Superior Court of Los Angeles County; BA207150.) Petition for review after the Court of Appeal affirmed judgments of conviction of criminal offenses. This case includes the following issues:

(1) For purposes of moving to suppress recordings of telephone conversations under a court-approved wiretap, can a defendant have a legitimate expectation of privacy in telephone conversations made and received on a telephone that was procured under a false name and was used for criminal purposes? (2) Does Penal Code section 629.72 create a broader right to challenge the admission of communications intercepted by such a wiretap than that afforded by the Fourth Amendment to the federal Constitution? (3) What showing of necessity is required for issuance of a wiretap in conspiracy cases?

**1:30 P.M.**

**(10) *Sterling v. Taylor, S121676***

#04-27 *Sterling v. Taylor, S121676*. (B162961; 113 Cal.App.4th 931; Superior Court of Los Angeles County; SC065807.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case presents the following issue: Did writings exchanged between the parties satisfy the statute of frauds and result in an enforceable agreement for the sale of real property?

**(11) *People v. Giles (Dwayne), S129852***

#04-159 *People v. Giles (Dwayne), S129852*. (B166937; 123 Cal.App.4th 475; Superior Court of Los Angeles County; TA066706.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. The court limited review to the following issues: (1) Did defendant forfeit his confrontation clause claim regarding admission of the victim’s prior

statements concerning an incident of domestic violence (see Evid. Code, § 1370) under the doctrine of “forfeiture by wrongdoing” because defendant killed the victim, thus rendering her unavailable to testify at trial? (2) Does the “forfeiture by wrongdoing” doctrine apply where the alleged “wrongdoing” is the same as the offense for which defendant is on trial?

***(12) People v. Navarro (Horacio), S132666 (Baxter, J., not participating; Kitching, J., assigned justice pro tempore.)***

#05-122 People v. Navarro (Horacio), S132666. (F044291; 127 Cal.App.4th 159; Superior Court of Tulare County; 88051, 98496.) Petition for review after the Court of Appeal modified and remanded for resentencing and otherwise affirmed a judgment of conviction of criminal offenses. The court limited review to the following issue: After concluding that the evidence was insufficient to support defendant’s conviction for attempted kidnapping during the commission of carjacking, could the Court of Appeal properly modify the judgment to reflect conviction of *two* lesser included offenses—attempted kidnapping and attempted carjacking—or only one such offense?